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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT JOHN GARCIA,

Petitioner - Appellant,

v.

JOHN F. SALAZAR,

Respondent - Appellee.

No. 06-55573

D.C. No. CV-05-00786-DMS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, TROTT, and RYMER, Circuit Judges.

California state prisoner Robert John Garcia appeals pro se from the district court's dismissal of his 28 U.S.C. § 2254 petition as untimely. We have

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Garcia contends that the district court erred by dismissing his petition. We disagree. Garcia filed his § 2254 petition after expiration of the one-year limitations period set forth by 28 U.S.C. § 2244(d). The filing of Garcia's state habeas petitions did not toll the limitations period, *see Jiminez v. Rice*, 276 F.3d 478, 482 (9th Cir. 2001), and Garcia does not contend that he is entitled to equitable tolling, *see, e.g., Rasberry v. Garcia*, 448 F.3d 1150, 1153 (9th Cir. 2006).

We decline to address Garcia's unexhausted challenge to the Board of Prison Terms's denial of parole in June 2006. *See* 28 U.S.C. § 2254(b)(1); *McQuown v. McCartney*, 795 F.2d 807, 809 (9th Cir. 1986) (per curiam).

AFFIRMED.